

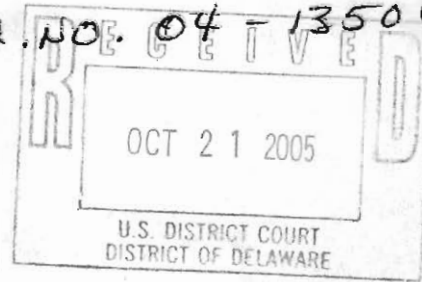
IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

JIMMIE LEWIS,

V.

DR. SYLVIA FOSTER, STAFF  
MEMBERS, THE DELAWARE  
PSYCHIATRIC CENTER AND  
MR. GREY,

CA. NO. 04-1350 (GMS)



ANSWER TO DEFENDANTS  
MOTIONS TO DISMISS PURSUANT  
TO FED R. CIV. PRO 12(b)(1) AND  
12(b)(6)

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COMES NOW, THE PLAINTIFF JIMMIE LEWIS, PRO-SE,  
ANSWER TO DEFENDANTS DR. SYLVIA FOSTER,  
MR. ROBERT GRAY (MR. GREY) AND THE DELAWARE'S  
PSYCHIATRIC CENTER'S MOTIONS TO DISMISS PURSUANT  
TO FED R. CIV. PRO 12(b)(1) AND 12(b)(6), IN SUPPORT  
ASSERTS THE FOLLOWING:

- 1.) SUBSEQUENTLY TO THE DEFENDANTS FILING  
MOTIONS TO DISMISS PURSUANT TO FED R. CIV-  
PRO 12(b)(1) AND 12(b)(6), THE PLAINTIFF  
FILED A MOTION REQUESTING THE COURTS PERMISSION  
TO AMEND THE COMPLAINT IN ORDER TO CURE  
THE DEFICIENCIES; -

(CONT) I FILED THE AMENDED COMPLAINT WITH THE CLERK OF THE U.S. DISTRICT COURT, FOR THE COURT AUG 2005, WITH CYNTHIA G. BEAM ESQ ATTORNEY FOR DEFENDANT "DR. SYLVIA FOSTER" AUG 26, 2005, WITH PHEBE S YOUNG DEPUTY ATTORNEY GENERAL FOR DEFENDANT "ROBERT N. GRAY (MR. GREY)" AND DEFENDANT "THE DELAWARE PSYCHIATRIC CENTER SEPT 6, 2005.

2.) THE DEFENDANT "DR. SYLVIA FOSTER" ASSERTS THAT, IN HER OFFICIAL CAPACITY SHE IS THE CHIEF FORENSIC PSYCHIATRIST FOR THE STATE OF DELAWARE, WHO IS A CONTRACT EMPLOYEE THAT DOES NOT HAVE SOVEREIGN IMMUNITY, THEREFORE, "DR SYLVIA-FOSTER" IS LIABLE UNDER COLOR OF LAW STATUTE.

3.) THE DEFENDANT, "THE DELAWARE PSYCHIATRIC CENTER" ASSERTS THAT IT IS AN AGENCY, NOT A PERSON, FOR WHICH VARIFIES THAT THE COURT HAS NO JURISDICTION IN REGARDS TO THE PLEADINGS OF THE PLAINTIFF COMPLAINT. IN RESPONSE, I THE PLAINTIFF JIMMIE LEWIS OFFER NO CONTENTION OF LAW IN REGARDS TO SAID DEFENDANTS PLEADINGS, AND HEREBY REQUEST TO HAVE MY CLAIM AGAINST DEFENDANT "THE DELAWARE PSYCHIATRIC CENTER" DISMISSED WITHOUT PREJUDICE, SPECIFICLY BECAUSE 90% OF THE DEFENDANTS HAVE BEEN NAMED IN THE PLEADINGS OF THE AMENDED COMPLAINT.

- 4.) THE DEFENDANT "DR. SYLVIA FOSTER" ASSERT THAT THE COMPLAINT ONLY IMPLIES TWO AVENUES OF RELIEF;
- (a) PETITION FOR HABEAS CORPUS, AND;
  - (b) A COMPLAINT UNDER CIVIL RIGHTS ACT.

STATING ALSO THAT THE PLAINTIFFS COMPLAINT CONTAINS NO LANGUAGE THAT WOULD IMPLY THAT THE SENTENCE IS BEING DISPUTED. SUBSEQUENTLY THE AMENDED COMPLAINT WAS FILED WITH THE COURT AS WELL AS WITH THE DEFENDANT "DR. SYLVIA FOSTER" CONTAINING PLEADINGS THAT CURED SAID MISINTERPRETATION OF THE FACTS.

- 5.) THE DEFENDANT(S) "DR. SYLVIA FOSTER" AND DEFENDANT "ROBERT N. GRAY" ASSERT THAT THE PLAINTIFF PLEADINGS FAILS TO OVERTLY OR BY IMPLICATION INJURIES THAT WERE INFLICTED DUE TO THE DEFENDANTS DEPRIVING AND OR VIOLATING CONSTITUTIONAL AND OR STATUTORY RIGHTS, LAW, STATUTE, ORDINANCE OR REGULATION. SUBSEQUENTLY THE AMENDED COMPLAINT WAS FILED WITH THE COURT AS WELL AS WITH THE DEFENDANT "DR. SYLVIA FOSTER" AND DEFENDANT "ROBERT N. GRAY" CONTAINING PLEADINGS THAT CURED SAID MISINTERPRETATION OF THE FACTS.



6.) THE DEFENDANT "DR. SYLVIA FOSTER" ASSERTS THAT NO FEDERAL CIVIL ACTION MAY BE BROUGHT BY A PRISONER CONFINED IN A JAIL, PRISON OR OTHER CORRECTIONAL FACILITY, FOR MENTAL OR EMOTIONAL INJURIES SUFFERED WHILE IN CUSTODY WITHOUT PRIOR SHOWING OF INJURY. SUBSEQUENTLY THE AMENDED COMPLAINT WAS FILED WITH THE COURT AS WELL AS WITH THE DEFENDANT "DR. SYLVIA FOSTER" CONTAINING PLEADINGS THAT CURED SAID MISINTERPRETATION OF THE FACTS.

7.) THE DEFENDANT "DR. SYLVIA FOSTER" ASSERTS THAT, IF THE PLAINTIFF'S COMPLAINT IS CONSTRUED AS A COMMON LAW BATTERY OR MEDICAL NEGLIGENCE, THEN THE DISTRICT COURT CAN APPLY THE LAW OF THE FORUM. STATING ALSO THAT THESE CONSTRUED ALLEGATIONS MUST BE DISMISSED FOR FAILURE ON THE BEHALF OF THE PLAINTIFF TO STATE A CLAIM UPON WHICH RELIEF MAY BE GRANTED, STATING SINCE THERE IS NO ALLEGATION THAT CHIEF DR. SYLVIA FOSTER EVER PERSONALLY TOUCHED THE PLAINTIFF,

IN DEFENSE OF THE PLAINTIFFS PLEADINGS DEFENDANT "DR. SYLVIA FOSTER" AVAILED HERSELF UNDER DELAWARE LAW STATUTE 11 DEL C. 468 (3); (5); (7), STATING THAT SHE IS PERMITTED TO UTILIZE THE AUTHORITY INVESTED TO HER TO ORDER THE USE OF FORCE.

(CONT) PRESENTING THESE COLOR OF LAW TERMS OF DEFENSE, WITHOUT PRESENTING ANY PLEADINGS INDICATING THAT THE PLAINTIFF RECEIVED A DISCIPLINARY HEARING AND OR A COMPETENCY HEARING BEFORE OR AFTER SAID FORCE WAS ORDERED TO BE UTILIZED AGAINST THE PLAINTIFF, DRAWS AN INFERENCE DEFINING THE STATUTE OF CONSPIRACY. THEREFORE, IN REGARDS TO THE DEFENDANT "DR. SYLVIA FOSTER" VERY OWN INCRIMINATING PLEADINGS, THE LAW OF THE FORUM SHOULD BE IMPLIMENTED.

SUBSEQUENTLY THE AMENDED COMPLAINT WAS FILED WITH THE COURT AS WELL AS WITH THE DEFENDANT "DR. SYLVIA FOSTER" CONTAINING PLEADINGS THAT CURED SAID MISINTERPRETATION OF THE FACTS.

8.) THE DEFENDANT "DR. SYLVIA FOSTER" ASSERTS THAT IF THE PLAINTIFFS COMPLAINT IS CONSTRUED AS BEING A COMPLAINT OF MEDICAL NEGLIGENCE, THEN THE COMPLAINT SHOULD BE DISMISSED SINCE THE PLAINTIFF PROVIDES NO AFFIDAVIT OF MERIT SIGNED BY AN EXPERT WITNESS.

IN RESPONSE THE PLAINTIFFS COMPLAINT DOES CONTAIN MEDICAL NOTES SIGNED BY PSYCHIATRIST(S), PHYSICIAN(S), NURSE(S), SOCIAL WORKER, NURSE ASSISTANT(S), PSYCHOLOGIST AND THE DIETICIANAS WELL AS THE DEFENDANT "DR. SYLVIA FOSTER" HERSELF, IN WHICH FACTUAL VALIDATES THAT MEDICAL TACTIC'S AND OR MEDICAL TREATMENT WAS CONDUCTED ON THE PLAINTIFF.

(CONT)

BUT CONTRARY TO WHAT THE DEFENDANT —  
 "DR. SYLVIA FOSTER" AUTHORED IN THE FORENSIC  
 PSYCHIATRIC EVALUATION SUBMITTED TO THE SUPERIOR  
 COURT, IN AND FOR NEW CASTLE COUNTY, IN WHICH  
 STATES, I QUOTE, (MR. LEWIS DEMONSTRATED  
 NO EVIDENCE OF MOOD DISORDER OR PSYCHOSIS DURING  
 HIS ADMISSION TO DPC, AND IT IS LIKELY THAT HE  
 NEVER HAD SCHIZOPHRENA OR ANY OTHER CHRONIC  
 PSYCHOTIC DISORDER, STATING MR. LEWIS WAS  
 PRESCRIBED NO PSYCHOTROPIC MEDICATION?) UNQUOTE.

THE FORENSIC PSYCHIATRIC EVALUATION HAS  
 BEEN SUBMITTED FOR EXHIBIT, IN WHICH MAKES THE  
 PLAINTIFF'S PLEADINGS THAT THE DEFENDANT —  
 "DR. SYLVIA FOSTER" ORDERING FORCE TO BE UTILIZED  
 AGAINST HIM, FOR REASONS THAT CANT BE  
 JUDICIALLY JUSTIFIED, UNDENIABLE.

THE EXHIBITS THAT THE PLAINTIFF SUBMITTED  
 AS SUPPORTING EVIDENCE, SIGNIFIES THAT IT DOES TAKE  
 A SIGNED AFFIDAVIT FROM AN EXPERT WITNESS TO  
 FACTUALLY CONCLUDE IN THIS CASE, THAT THE  
 DEFENDANT "DR. SYLVIA FOSTER" VIOLATED THE PLAINTIFF  
 STATUTORILY AND CONSTITUTIONALLY.

SUBSEQUENTLY THE AMENDED COMPLAINT WAS  
 FILED WITH THE COURT AS WELL AS WITH THE DEFENDANT  
 "DR. SYLVIA FOSTER" CONTAINING PLEADINGS THAT CURED  
 SAID MISINTERPRETATION OF THE FACTS.



9.) THE DEFENDANT "DR. SYLVIA FOSTER" AVAILS HERSELF IN DEFENSE PROVIDED BY DELAWARE LAW 11 DEL C. 468 (3); (5); AND (7), STATING RESPONSIBILITY FOR THE SAFETY OF THE PLAINTIFF, OTHER PATIENTS AND STAFF, AND IS THEREFOR PERMITTED TO ORDER THE NECESSARY USE OF FORCE FOR THE PURPOSE OF SAFEGUARDING THE WELFARE OF THE PATIENTS AND OTHERS.

BUT BECAUSE THE DEFENDANT "DR. SYLVIA FOSTER" AUTHORED THE FORENSIC PSYCHIATRIC EVALUATION THAT STATES, I QUOTE, (MR. LEWIS DEMONSTRATED NO EVIDENCE OF MOOD DISORDER OR ~~IN~~ PSYCHOSIS DURING HIS ADMISSION TO DPC, AND IT IS LIKELY THAT HE NEVER HAD SCHIZOPHRENIA OR ANY OTHER CHRONIC ~~UNUSUAL~~ PSYCHOTIC DISORDER, STATING MR. LEWIS WAS PRESCRIBED NO PSYCHOTROPIC MEDICATION.) UNQUOTE, VARIFIES THAT THE ORDERS THE DEFENDANT "DR SYLVIA FOSTER" ORDERED FALL OUTSIDE OF THE AUTHORITY PROVIDED BY 11 DEL C. 468(3);(5); AND (7).

NOTE: THE DEFENDANT "DR. SYLVIA FOSTER" DID NOT CITE 11 DEL. C 468 (4); IN WHICH IS THE ONLY STATUTE OF STATUTE 11 DEL. C 468 THAT GRANTS SUCH A DEFENSE TO A DOCTOR, A THERAPIST OR A PERSON ASSISTING A DOCTOR OR A THERAPIST? THEREFOR FOR THE DEFENDANT DR. SYLVIA FOSTER TO CITE, 11 DEL C 468 - (3);(5); AND (7) IN HER PLEADINGS OF DEFENSE DRAW A STRONG INFERENCE THAT AN ABUSE OF FORCE WAS UNJUSTIFIABLE UTILIZED.

10.) THE DEFENDANT "ROBERT N GRAY" (MR GREY) ASSERTS THAT THE PLAINTIFF FAILED TO IDENTIFY OVERTLY OR BY IMPLICATION, ANY STATUTORY AND OR ANY CONSTITUTIONAL RIGHTS THAT WERE VIOLATED AND OR DEPRIVED DUE TO HIS ACTIONS, EVEN THOUGH THE DEFENDANT MR. GREY (ROBERT N GRAY) ASSERT IN HIS PLEADINGS THAT THE ONLY REFERENCE TO ANY PHYSICALITY IS AT THE TOP OF THE SECOND PAGE OF THE PLAINTIFFS' COMPLAINT, STATING AN ALLEGED ALTERCATION WHEN A BAG OF M&M CHOCOLATE CANDY WAS FORCIBLY REMOVED FROM HIS HAND, THE ALLEGEDLY ASSULTED BY MR GREY (ROBERT N. GRAY) AND THREE OR FOUR STAFF MEMBER.

IN REGARDS TO THIS MATTER, SUBSEQUENTLY THE AMENDED COMPLAINT WAS FILED WITH THE COURT AS WELL AS WITH THE DEFENDANT "ROBERT N GRAY" (MR GRAY) CONTAINING PLEADINGS THAT CURED SAID MISINTERPRETATION OF THE FACTS.

WHEREFORE, FOR THE FORGOING REASONS DEFENDANT(S) MOTIONS REQUESTING THAT THE COMPLAINT BE DISMISSED SHOULD BE DENIED

DATE: 10/11/05

Jimmie Lewis  
SBI # 506622  
DEL. CORR. CENTER  
1181 PADDOCK RD  
SMYRNA, DE 19977



IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

JIMMIE LEWIS,

v.

CA. NO. 04-1350 (GMS)

DR. SYLVIA FOSTER, STAFF  
MEMBERS, THE DELAWARE  
PSYCHIATRIC CENTER AND  
MR. GREY,

CERTIFICATE OF SERVICE

I, THE UNDERSIGNED, DO HEREBY CERTIFY ON THIS 11<sup>TH</sup> DAY  
OF OCT, 2005, THAT (2) TWO TRUE AND CORRECT COPIES OF  
PLAINTIFF'S JIMMIE LEWIS', ANSWER TO DEFENDANTS MOTION  
TO DISMISS, HAS BEEN SERVED BY U.S MAIL TO THE FOLLOWING:

PIERRE S. YOUNG # 1043  
DEPUTY ATTORNEY GENERAL  
CARVEL STATE OFFICE BUILDING  
820 N. FRENCH ST, 6<sup>TH</sup> FLOOR  
WILMINGTON, DE 19801  
ATTORNEY FOR DEFENDANT(S)  
MR ROBERT GRAY A.K.A (MR. GREY),  
AND THE DELAWARE PSYCHIATRIC  
CENTER

DATE: 10/11/05

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CYNTHIA G. BEAM ESQ  
DEL STATE BAR I.D. NO 25665  
1001 JEFFERSON PLAZA, SUITE 202  
WILMINGTON, DELAWARE 19801  
ATTORNEY FOR DEFENDANT DR. SYLVIA FOSTER,  
ETAL.

DATE: 10/11/05

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TO DISMISS, HAS BEEN SERVED BY U.S. MAIL TO THE FOLLOWING:

JUDGE GREGORY M. SLEET  
UNITED STATES DISTRICT COURT  
J. CALEB BOGGS FEDERAL BUILDING  
844. N. KING ST, LOCKBOX 19  
WILMINGTON, DELAWARE 19801

DATE: 10/11/05

Jimmie Lewis  
SBI# 506622  
DEL. CORR. CENTER  
1181 PADDOCK RD  
SMYRNA, DE 19977